

105TH CONGRESS
2D SESSION

S. 2428

To provide for the restructuring of the Immigration and Naturalization Service, and for other purposes.

IN THE SENATE OF THE UNITED STATES

AUGUST 31, 1998

Mr. KENNEDY (by request) introduced the following bill; which was read twice and referred to the Committee on the Judiciary

A BILL

To provide for the restructuring of the Immigration and Naturalization Service, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Immigration and Nat-
5 uralization Service Restructuring Act of 1998”.

6 **SEC. 2. PURPOSES.**

7 The purposes of this Act are to:

8 (1) Advance the effective enforcement of our
9 immigration laws at our borders and in the interior,

1 and the efficient provision of immigration and citi-
2 zenship services.

3 (2) Untangle the overlapping and frequently
4 confusing organizational structure of INS' by replac-
5 ing it with two clear operational chains of com-
6 mand—one for enforcement and one for providing
7 services—from the highest level of the agency to the
8 lowest.

9 (3) Create two parallel operational divisions
10 which can each focus on its unique management,
11 knowledge, skills and abilities, while also retaining
12 the essential functions for guiding and coordinating
13 these operations.

14 (4) Improve customer-oriented immigrant serv-
15 ices by—

16 (A) creating new local service offices;

17 (B) establishing new, distinct lines of ac-
18 countability of authority for services;

19 (C) setting clear standards for customer
20 service; and

21 (D) using technology to improve efficiency
22 and customer service.

23 (5) Strengthen enforcement operations by—

24 (A) establishing a single, coordinated en-
25 forcement mission;

1 (B) integrating enforcement, and strength-
2 ening accountability;

3 (C) organizing enforcement areas by func-
4 tion, including Border Patrol, inspections, in-
5 vestigations and removals, detention and en-
6 forcement support; and

7 (D) developing overtime pay parity with
8 other Federal law enforcement agencies.

9 (6) Provide for efficient integration of service
10 and enforcement by—

11 (A) creating an administrative and tech-
12 nical backbone of support for enforcement and
13 service; and

14 (B) developing and managing essential im-
15 migration records, computer systems, training,
16 and shared administrative functions.

17 **SEC. 3. DEFINITIONS.**

18 For purposes of this Act, the following definitions
19 shall apply:

20 (1) The term “INA” refers to the Immigration
21 and Nationality Act of 1952, as amended up to the
22 effective date of this Act.

23 (2) The term “INS” means the Immigration
24 and Naturalization Service.

1 **SEC. 4. EFFECTIVE DATE.**

2 Except as otherwise provided by this Act, this Act
3 shall take effect on October 1, 2000.

4 **TITLE I—AGENCY**
5 **ORGANIZATION**

6 **SEC. 101. AGENCY ORGANIZATION.**

7 (a) The Immigration and Naturalization Service [the
8 Service] shall be responsible for administering the immi-
9 gration laws of the United States. The Service will be or-
10 ganized in a way that ensures the effective implementation
11 of enforcement strategies at the border, the interior of the
12 country, and overseas, and the timely and efficient provi-
13 sion of immigrant services and benefits with complete in-
14 tegrity. The Service will be structured along programmatic
15 lines and composed of an—

- 16 (1) Office of Immigrant Services;
17 (2) Office of Enforcement Operations; and
18 (3) Office of Shared Services.

19 (b) **HEADQUARTERS OPERATIONS.**—The Service will
20 be led by a Commissioner and Deputy Commissioner who
21 will focus on immigration enforcement and service policy
22 and establish a framework to implement national prior-
23 ities. In addition, headquarters operations will be respon-
24 sible for policy formulation, strategic planning and the de-
25 velopment of agency goals, objectives and performance
26 targets; agency-wide management support and coordina-

1 tion; budget formulation and execution; public affairs;
2 Congressional relations; general counsel; and internal
3 audit.

4 (1) CHIEF FINANCIAL OFFICER.—A Chief Fi-
5 nancial Officer (CFO) will be established for the ef-
6 fective and efficient management and accountability
7 of Service resources. The CFO will coordinate budg-
8 et formulation, execution and agency-wide financial
9 management operations. To address the Service’s di-
10 verse funding sources, the CFO will ensure sound
11 agency-wide financial management systems and
12 processes. The CFO will ensure that immigrant serv-
13 ices and enforcement operations have clearly sepa-
14 rated and defined resource streams.

15 (2) STRATEGIC PLANNING AND STATISTICAL
16 MEASURES.—A director of the strategy unit will be
17 responsible for policy formulation, developing the
18 long-term strategy for the Service and facilitating
19 the process of designing programs to execute that
20 strategy, in consultation with the offices of Immi-
21 grant Services, Enforcement Operations and Shared
22 Services. This office will create long-range strategic
23 and performance measurement plans, in cooperation
24 with relevant program components. In addition, this
25 office will be responsible for establishing and

1 strengthening Federal immigration statistical policy
2 and measurement operations.

3 (c) The Office of Immigrant Services will be headed
4 by an Executive Associate Commissioner (EAC), a Senior
5 Executive who will report directly to the Office of the
6 Commissioner. The EAC will be responsible for establish-
7 ing an operational chain of command dedicated solely to
8 immigration services, focusing comprehensively on provid-
9 ing quality, timely and efficient services to the immigrant
10 community and institutions requiring immigrant services.
11 The EAC will be responsible for all aspects of INS service
12 and benefit operations and the Office of Immigration
13 Services will be organized around four functional goals:

14 (1) Ensuring timely processing and courteous
15 service for the immigrant community through na-
16 tionally established customer service standards.

17 (2) Providing efficient, accurate benefit process-
18 ing from remote service centers, and service area op-
19 erations.

20 (3) Ensuring secure documents with uncompro-
21 mising integrity.

22 (4) Serving the refugee and asylee population
23 through humane and timely service and benefits. Ad-
24 ditionally, the EAC is responsible for coordinating,
25 with the Office of Shared Services, the effective ac-

1 quisition and utilization of shared support items in-
2 cluding information technology, financial manage-
3 ment, facility construction, personnel and training.
4 The responsibilities and duties of the Director of the
5 Office of Immigrant Services shall include:

6 (A) SERVICE AREA OPERATIONS.—Service
7 area operations will be located in immigrant
8 communities around the United States. The
9 EAC will develop and maintain performance
10 measures to ensure that offices within each
11 area provide efficient and consistent service,
12 while maintaining the integrity of application
13 processing. These offices will provide a variety
14 of services to applicants, including
15 fingerprinting, photographing, and interviewing
16 applicants. Some offices will be configured as
17 full-service offices and others will serve as sat-
18 ellite locations. All will have a standard appear-
19 ance with customer-oriented features.

20 (B) SERVICE CENTER OPERATIONS.—Serv-
21 ice center operations will include centralized
22 automated processing and adjudication for ap-
23 plications and petitions that do not require im-
24 migrant interviews. In addition, the service cen-
25 ters will provide front-end fee receipt, data

1 entry and scheduling for applications and peti-
2 tions that require interviews.

3 The EAC will be responsible for the collection
4 of all management reporting information relative to
5 the service centers, for budget formulation and exe-
6 cution for the service center budgets, for ensuring
7 the accuracy and quality control of the adjudication
8 of benefits at the service centers, for all employee
9 hiring and grievance issues at the centers and for
10 monitoring, overseeing and executing the mail file
11 and data entry operations. The EAC will also coordi-
12 nate with the CFO on financial management.

13 (C) TELEPHONE CENTER OPERATIONS.—

14 The Service will operate a coordinated tele-
15 phone assistance system to respond to customer
16 inquiries. The EAC will be responsible for de-
17 signing and operating a telephone system that
18 relies on all assets of the Service to ensure that
19 customer inquiries are promptly and accurately
20 addressed. This will include operating and
21 maintaining the telephone centers, any contract
22 call-answering facilities, and utilizing an over-
23 flow telephone call assistance capacity designed
24 to access information officers at the service cen-
25 ters as needed.

(d) The Office of Enforcement Operations will be headed by an Executive Associate Commissioner (EAC), a Senior Executive who will report directly to the Office of the Commissioner. The EAC will be responsible for establishing an operational chain of command dedicated solely to immigration enforcement, focusing comprehensively on illegal immigration problems at the border and in the interior of the United States, and ensuring better linkages of enforcement operations through a single point of accountability for performance. The EAC will be responsible for all aspects of the Service's enforcement and border management operations including international enforcement efforts and will be organized around 4 functional goals: managing by the Border Patrol of the border between ports-of-entry; conducting inspections and managing all port of entry operations; overseeing investigations and removals; and coordinating and managing detention and enforcement support. Additionally, the EAC is responsible for coordinating, with the Office of Shared Services, the effective acquisition and utilization of shared support items including information technology, financial management, facility construction, personnel and training. The responsibilities and duties of the EAC will include:

(1) BORDER MANAGEMENT.—By placing both Border Patrol and Inspection activities under a sin-

1 gle EAC, the Service will be able to provide seamless
2 border enforcement along the Nation's borders, and
3 will be better able to coordinate operations with
4 other Federal and governmental agencies along the
5 border.

6 (A) The Border Patrol will perform its
7 current border management and control func-
8 tions of deterring illegal immigration and ap-
9 prehending illegal aliens between ports of entry.
10 In addition, the Border Patrol will continue to
11 work with Federal, State, and local law enforce-
12 ment agencies to effectively administer laws re-
13 lated to the interdiction of drug trafficking ac-
14 tivities.

15 (B) Port of Entry management is a key
16 component of border management due to the
17 interrelationship between activities at and be-
18 tween land border ports of entry. The EAC will
19 be operationally responsible for carrying out
20 these duties in compliance with applicable law
21 and policy and will be responsible for effectively
22 monitoring resource utilization and maintaining
23 accurate performance measures for these activi-
24 ties.

1 (2) INTERIOR ENFORCEMENT AND REMOV-
2 ALS.—The EAC will be responsible for consolidating
3 investigations, intelligence and deportation functions
4 into one coordinated multidisciplinary component to
5 focus on illegal alien removals and to vigorously
6 combat immigration document fraud, smuggling,
7 and illegal employment in the workplace. This con-
8 solidated approach will ensure swift and proper ap-
9 prehension, incarceration, and removal of those ille-
10 gally residing and working in this country.

11 (3) DETENTION AND ENFORCEMENT SUP-
12 PORT.—The EAC will be responsible for ensuring
13 logistical coordination for the incarceration and
14 transportation of criminal and illegal aliens. The di-
15 rector will be responsible for effectively managing
16 the Service's bed space at both Service-owned and
17 contract detention facilities. Additionally, the direc-
18 tor will be responsible for effectively acquiring bed
19 space from State and local entities to ensure the
20 Service can detain and transport individuals it ap-
21 prehends.

22 (e) The Office of Shared Services will be headed by
23 an Executive Associate Commissioner (EAC), a Senior
24 Executive who will report directly to the Office of the
25 Commissioner. The EAC will be responsible for establish-

1 ing an operational chain of command dedicated to meeting
 2 the support requirements for both the enforcement and
 3 service operational components. The EAC will be respon-
 4 sible for the effective provision of shared administrative
 5 and support services to ensure that each side of the agency
 6 has the appropriate administrative and technological tools
 7 to do its jobs in the most effective and cost-efficient way.
 8 The EAC will accomplish this through 4 functional goals:
 9 establishing and maintaining a records management sys-
 10 tem that accurately and efficiently documents immigration
 11 status; ensuring information and enforcement technology
 12 enhancements and initiatives are developed and main-
 13 tained to operational component specifications; building
 14 and maintaining a superior recruiting, hiring and training
 15 operation to meet Service employment requirements; and
 16 building and managing a Service physical plant to ade-
 17 quately support agency housing needs. The EAC will also
 18 coordinate with the CFO on financial management. The
 19 responsibilities and duties of the EAC will include:

20 (1) AUTOMATION AND TECHNOLOGY.—The
 21 EAC will be responsible for ensuring that the Serv-
 22 ice establishes and maintains state-of-the-art infor-
 23 mation resources capability to carry out agency en-
 24 forcement and service functions. The EAC will be
 25 responsible for deploying and monitoring technology

1 and ensuring that the Service's workforce operates
2 as effectively as possible with these tools. The EAC
3 will also establish and promulgate agency-wide policy
4 relative to the acquisition and deployment of tech-
5 nology capabilities in coordinating with the oper-
6 ational components of the Service.

7 (2) CENTRALIZED RECORDS MANAGEMENT.—
8 The EAC will be responsible for maintaining a cen-
9 tralized repository for all Service records and will be
10 responsible for establishing a greater level of data
11 integrity in existing electronic records and managing
12 the transition to an electronic records environment.

13 (3) PERSONNEL AND TRAINING.—The EAC will
14 be responsible for tracking the hiring of all cat-
15 egories of Service personnel and ensuring that all
16 employees receive proper training in a timely man-
17 ner. Specialized training courses and a full spectrum
18 of basic, advanced, and continuing education will be
19 established to ensure a professional workforce.

20 (4) ADMINISTRATIVE SUPPORT.—The EAC will
21 be responsible, in coordination with the operational
22 components of the Service, for planning, construct-
23 ing, and renovating all required Service facilities and
24 equipment, including Border Patrol stations, deten-
25 tion facilities, Immigrant Services offices and gen-

1 eral support office space. The EAC will also be re-
2 sponsible for logistics; procurement; and environ-
3 mental, occupational and health activities of the
4 Service.

5 **SEC. 102. SAVINGS PROVISIONS.**

6 (a) **LEGAL DOCUMENTS.**—All orders, determinations,
7 rules, regulations, permits, grants, loans, contracts, agree-
8 ments, certificates, licenses, and privileges—

9 (1) that have been issued, made, granted, or al-
10 lowed to become effective by the President, the At-
11 torney General, the Commissioner of the INS, or
12 any other Government official, or by a court of com-
13 petent jurisdiction, in the performance of any func-
14 tion that is transferred; and

15 (2) that are in effect on the effective date of
16 such transfer (or become effective after such date
17 pursuant to their terms as in effect on such effective
18 date); shall continue in effect according to their
19 terms until modified, terminated, superseded, set
20 aside, or revoked in accordance with law by the
21 President, any other authorization official, a court of
22 competent jurisdiction, or operation of law.

23 (b) **PROCEEDINGS.**—This Act shall not affect any
24 proceedings including proceedings before the Executive
25 Office for Immigration Review and any application for any

1 benefits, service, license, permit, certificate, or financial
2 assistance pending on the date of the enactment of this
3 Act before an office whose functions are transferred by
4 this Act, but such proceedings and applications shall be
5 continued. Orders shall be issued in such proceedings, ap-
6 peals shall be taken therefrom, and payments shall be
7 made pursuant to such orders, as if this Act had not been
8 enacted, and orders issued in any such proceeding shall
9 continue in effect until modified, terminated, superseded,
10 or revoked by a duly authorized official, by a court of com-
11 petent jurisdiction, or by operation of law. Nothing in this
12 subsection shall be considered to prohibit the discontinu-
13 ance or modification of any such proceeding under the
14 same terms and conditions and to the same extent that
15 such proceeding could have been discontinued or modified
16 if this Act had not been enacted.

17 (c) SUITS.—This Act shall not affect suits com-
18 menced before the date of enactment of this Act, and in
19 all such suits, proceedings shall be had, appeals taken, and
20 judgments rendered in the same manner and with the
21 same effect as if this Act had not been enacted.

22 (d) NONABATEMENT OF ACTIONS.—No suit, action,
23 or other proceeding commenced by or against the Depart-
24 ment of Justice or the Immigration and Naturalization
25 Service, or by or against any individual in the official ca-

1 capacity of such individual as an officer or employee in con-
2 nection with a function transferred by the Act, shall abate
3 by reason of the enactment of this Act.

4 (e) CONTINUANCE OF SUITS.—If any Government of-
5 ficer in the official capacity of such officer is party to a
6 suit with respect to a function of the officer, and under
7 this Act such function is transferred to any other officer
8 or office, then such suit shall be continued with the other
9 officer or the head of such other office, as applicable, sub-
10 stituted or added as a party.

11 (f) ADMINISTRATIVE PROCEDURE AND JUDICIAL RE-
12 VIEW.—Except as otherwise provided by this Act, any
13 statutory requirements relating to notice, hearings, action
14 upon the record, or administrative or judicial review that
15 apply to any function transferred by this Act shall apply
16 to the exercise of such function by the head of the office,
17 and other officers of the office, to which such function is
18 transferred by this Act.

19 (g) DEPARTMENT OF STATE.—Nothing in this Act
20 shall be construed to preclude or limit in any way the pow-
21 ers, authorities, or duties of special agents of the Depart-
22 ment of State and the Foreign Service under section 2709
23 of title 22, United States Code, or of the Secretary of
24 State under section 4801, et seq. of title 22, United States

1 Code, to investigate illegal passport or visa issuance or
2 use.

3 **SEC. 103. COMMISSIONER COMPENSATION.**

4 Effective as of the day following the date on which
5 the present incumbent in the office of the Commissioner
6 ceases to serve as such, the Commissioner of the Immigra-
7 tion and Naturalization Service shall receive compensation
8 at the rate prescribed for level III of the Federal Executive
9 Salary Schedule (section 5314 of title 5, United States
10 Code).

11 **TITLE II—CONFORMING**
12 **AMENDMENTS**

13 **SEC. 201. CONFORMING AMENDMENTS.**

14 (a) Section 103(e)(2) of the INA, 8 U.S.C. section
15 1103(e)(2), is amended by striking “district office of the
16 Service” and inserting “designated office of the Immigra-
17 tion and Naturalization Service”.

18 (b) Section 242(b)(3)(A) of the INA, 8 U.S.C. section
19 1252(b)(3)(A), is amended by striking “Service district”
20 and inserting “designated office of the Immigration and
21 Naturalization Service”.

22 (c) Section 316 of the INA, 8 U.S.C. section 1427,
23 is amended—

24 (1) in subsection (a) by striking “district of the
25 Service” and inserting “area serviced by the des-

1 ignated office of the Immigration and Naturalization
2 Service”; and

3 (2) in subsection (f)(1) by striking “district of
4 the Service” and inserting “area serviced by the des-
5 ignated office of the Immigration and Naturalization
6 Service”.

7 (d) Section 319 of the INA, 8 U.S.C. section 1430,
8 is amended—

9 (1) in subsection (a) by striking “district of the
10 Service” and inserting “area serviced by the des-
11 ignated office of the Immigration and Naturalization
12 Service”;

13 (2) in subsection (b)(3) by striking “district of
14 the Service” and inserting “area serviced by the des-
15 ignated office of the Immigration and Naturalization
16 Service”;

17 (3) in subsection (c)(5) by striking “district of
18 the Service” and inserting “area serviced by the des-
19 ignated office of the Immigration and Naturalization
20 Service”; and

21 (4) in subsection (d) by striking “district of the
22 Service” and inserting “area serviced by the des-
23 ignated office of the Immigration and Naturalization
24 Service”.

1 (e) Section 324 of the INA, 8 U.S.C. section
2 1435(a)(1), is amended by striking “district of the Serv-
3 ice” and inserting “area serviced by the designated office
4 of the Immigration and Naturalization Service”.

5 (f) Section 328 of the INA, 8 U.S.C. section 1439,
6 is amended—

7 (1) in subsection (a) by striking “district of the
8 Service” and inserting “area serviced by the des-
9 ignated office of the Immigration and Naturalization
10 Service”;

11 (2) in subsection (b)(1) by striking “district of
12 the Service” and inserting “area serviced by the des-
13 ignated office of the Immigration and Naturalization
14 Service”; and

15 (3) in subsection (c) by striking “district of the
16 Service” and inserting “area serviced by the des-
17 ignated office of the Immigration and Naturalization
18 Service”.

19 (g) Section 329(b)(2) of the INA, 8 U.S.C.
20 1440(b)(2), is amended by striking “district of the Serv-
21 ice” and inserting “area serviced by the designated office
22 of the Immigration and Naturalization Service”.

23 (h) Section 335(f) of the INA, 8 U.S.C. section
24 1446(f), is amended by striking “district of the Service”
25 each time the phrase appears and inserting “area serviced

1 by the designated office of the Immigration and Natu-
2 ralization Service”.

3 (i) Section 338 of the INA, 8 U.S.C. section 1449,
4 is amended by striking “district office of the Service” and
5 inserting “designated office of the Immigration and Natu-
6 ralization Service”.

7 (j) Section 339(b) of the INA, 8 U.S.C. section
8 1450(b), is amended by striking “district office of the
9 Service” and inserting “designated office of the Immigra-
10 tion and Naturalization Service”.

11 (k) Section 404 of the INA, 8 U.S.C. section 1101,
12 note, is amended—

13 (1) in subsection (b)(2)(A)(i) by striking “a dis-
14 trict director of the Service” and inserting “a des-
15 ignated Immigration and Naturalization Service offi-
16 cer”; and

17 (2) in subsection (b)(2)(A)(iii) by striking “in a
18 district” and inserting “in a designated office of the
19 Immigration and Naturalization Service”.

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